

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JERRY WALTER WHITE

431 Menker Avenue
San Jose, CA 95128
Certified Public Accountant Certificate No.
72061

Respondent.

Case No. AC-2009 2

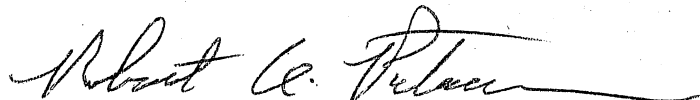
OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 27, 2009.

It is so ORDERED March 27, 2009.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 WILBERT E. BENNETT
Supervising Deputy Attorney General
3 DIANN SOKOLOFF, State Bar No. 161082
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4 1515 Clay Street, 20th Floor
P.O. Box 70550
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

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13 431 Menker Avenue
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15 72061

16 Respondent.

Case No. AC-2009 2

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Patti Bowers (Complainant) is the Acting Executive Officer of the
22 California Board of Accountancy. She brought this action solely in her official capacity and is
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
24 by Diann Sokoloff, Deputy Attorney General.

25 2. Respondent Jerry Walter White (Respondent) is representing himself in
26 this proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about September 20, 1996, the California Board of Accountancy
28 issued Certified Public Accountant Certificate No. 72061 to Jerry Walter White (Respondent).

1 The Certificate was in full force and effect at all times relevant to the charges brought in
2 Accusation No. AC-2009 2 and will expire on September 30, 2010, unless renewed.

3 JURISDICTION

4 4. Accusation No. AC-2009 2 was filed before the California Board of
5 Accountancy (Board) , Department of Consumer Affairs, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on November 14, 2008. Respondent timely filed his Notice of Defense
8 contesting the Accusation. A copy of Accusation No. AC-2009 2 is attached as Exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Accusation No. AC-2009 2. Respondent has also carefully read, and understands the effects of
13 this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
17 the right to present evidence and to testify on his own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. AC-2009 2.

26 9. Respondent agrees that his Certified Public Accountant Certificate is
27 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth
28 in the Disciplinary Order below.

1 CIRCUMSTANCES IN MITIGATION

2 10. Respondent Jerry Walter White has never been the subject of any
3 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

4 CONTINGENCY

5 11. This stipulation shall be subject to approval by the California Board of
6 Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of
7 the California Board of Accountancy may communicate directly with the Board regarding this
8 stipulation and settlement, without notice to or participation by Respondent. By signing the
9 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
10 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
11 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
12 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
13 action between the parties, and the Board shall not be disqualified from further action by having
14 considered this matter.

15 12. The parties understand and agree that facsimile copies of this Stipulated
16 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
17 force and effect as the originals.

18 13. In consideration of the foregoing admissions and stipulations, the parties
19 agree that the Board may, without further notice or formal proceeding, issue and enter the
20 following Disciplinary Order:

21 DISCIPLINARY ORDER

22 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No.
23 72061 issued to Respondent Jerry Walter White (Respondent) is revoked. However, the
24 revocation is stayed and Respondent is placed on probation for three (3) years on the following
25 terms and conditions.

26 1. **Obey All Laws.** Respondent shall obey all federal, California, other
27 states' and local laws, including those rules relating to the practice of public accountancy in
28 California.

- 1 2. **Submit Written Reports.** Respondent shall submit, within ten (10) days
2 of completion of the quarter, written reports to the Board on a form obtained from the Board.
3 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
4 and verification of actions as are required. These declarations shall contain statements relative to
5 Respondent's compliance with all the terms and conditions of probation. Respondent shall
6 immediately execute all release of information forms as may be required by the Board or its
7 representatives.
- 8 3. **Personal Appearances.** Respondent shall, during the period of probation,
9 appear in person at interviews/meetings as directed by the Board or its designated
10 representatives, provided such notification is accomplished in a timely manner.
- 11 4. **Comply With Probation.** Respondent shall fully comply with the terms
12 and conditions of the probation imposed by the Board and shall cooperate fully with
13 representatives of the Board of Accountancy in its monitoring and investigation of the
14 Respondent's compliance with probation terms and conditions.
- 15 5. **Practice Investigation.** Respondent shall be subject to, and shall permit,
16 practice investigation of the Respondent's professional practice. Such a practice investigation
17 shall be conducted by representatives of the Board, provided notification of such review is
18 accomplished in a timely manner.
- 19 6. **Comply With Citations.** Respondent shall comply with all final orders
20 resulting from citations issued by the Board of Accountancy.
- 21 7. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
22 Respondent should leave California to reside or practice outside this state, Respondent must
23 notify the Board in writing of the dates of departure and return. Periods of non-California
24 residency or practice outside the state shall not apply to reduction of the probationary period, or
25 of any suspension. No obligation imposed herein, including requirements to file written reports,
26 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
27 affected by such periods of out-of-state residency or practice except at the written direction of the
28 Board.

1 8. **Violation of Probation.** If Respondent violates probation in any respect,
2 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
3 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
4 probation is filed against Respondent during probation, the Board shall have continuing
5 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
6 is final.

7 9. **Completion of Probation.** Upon successful completion of probation,
8 Respondent's license will be fully restored.

9 10. **Continuing Education Courses.** Respondent shall complete 24 hours of
10 professional education courses as specified by the Board or its designee at the time of
11 Respondent's first probation appearance. The professional education courses shall be completed
12 within a period of time designated and specified in writing by the Board or its designee, which
13 time-frame shall be incorporated as a condition of this probation. This shall be in addition to
14 continuing education requirements for relicensing.

15 Failure to satisfactorily complete the required courses as scheduled or failure to
16 complete same no later than 100 days prior to the termination of probation shall constitute a
17 violation of probation.

18 11. **Active License Status.** Respondent shall at all times maintain an active
19 license status with the Board, including during any period of suspension. If the license is expired
20 at the time the Board's decision becomes effective, the license must be renewed within 30 days of
21 the effective date of the decision.

22 12. **Cost Reimbursement.** Respondent shall reimburse the Board \$7666.47
23 for its investigation and prosecution costs. The payment shall be made within the first two years
24 of probation. The payment shall be made as follows: in quarterly payments, the final payment
25 being due one year before probation is scheduled to terminate.

26 13. **Administrative Penalty.** Respondent shall pay the Board an
27 administrative penalty in the amount of \$1000. The payment shall be made in quarterly
28 payments (due with the quarterly written reports) in the first year of probation.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED: 9-08-09


JERRY WALTER WHITE
Respondent

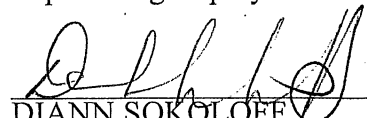
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 2/2/09

EDMUND G. BROWN JR., Attorney General
of the State of California

WILBERT E. BENNETT
Supervising Deputy Attorney General


DIANN SOKOLOFF
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Accusation No. AC-2009 2

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 WILBERT E. BENNETT
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10 **STATE OF CALIFORNIA**

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Case No. AC-2009 2

12 JERRY WALTER WHITE
431 Menker Avenue
13 San Jose, CA 95128
Certified Public Accountant No. 72061

A C C U S A T I O N

14 Respondent.
15

16 Complainant alleges:

17 PARTIES

18 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the California Board of Accountancy, Department of Consumer
20 Affairs.

21 2. On or about September 20, 1996, the California Board of Accountancy issued
22 Certified Public Accountant Number 72061 to Jerry Walter White (Respondent). Respondent's
23 certificate expired on or about October 1, 2002, and was not valid during the period October 1,
24 2002, through September 30, 2007. Effective October 1, 2007, the certificate was renewed
25 through September 30, 2008. The certificate expired on September 30, 2008, and was renewed
26 active through September 30, 2010.

27 JURISDICTION

28 3. This Accusation is brought before the California Board of Accountancy (Board),

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 5050 states:

4 "(a) Except as provided in subdivision (b) and (c) of this section, in subdivision
5 (a) of Section 5054, and in Section 5096.12, no person shall engage in the practice of public
6 accountancy in this state unless the person is the holder of a valid permit to practice public
7 accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1
8 (commencing with Section 5096.)."

9 5. Section 5060 states:

10 "(a) No person or firm may practice public accountancy under any name which is
11 false or misleading.

12 "(b) No person or firm may practice public accountancy under any name other
13 than the name under which the person or firm holds a valid permit to practice issued by the
14 board."

15 6. Section 5100 states:

16 "After notice and hearing the board may revoke, suspend, or refuse to renew any
17 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
18 (commencing with Section 5080), or may censure the holder of that permit or certificate for
19 unprofessional conduct that includes, but is not limited to, one or any combination of the
20 following causes:

21 ...

22 "(b) A violation of Section 478, 498, or 499 dealing with false statements or
23 omissions in the application for a license, in obtaining a certificate as a certified public
24 accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public
25 accountancy under this chapter.

26 "(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in
27 the same or different engagements, for the same or different clients, or any combination of
28 engagements or clients, each resulting in a violation of applicable professional standards that

1 indicate a lack of competency in the practice of public accountancy or in the performance of the
2 bookkeeping operations described in Section 5052.

3 ...

4 "(g) Willful violation of this chapter or any rule or regulation promulgated by the
5 board under the authority granted under this chapter."

6 7. Code sections 118(b) and 5109 provide in pertinent part that the suspension,
7 expiration, cancellation, or forfeiture of a license issued by the Board shall not deprive the Board
8 of its authority to investigate, or to institute or continue a disciplinary proceeding against a
9 licensee upon any ground provided by law, or to enter an order suspending or revoking the
10 license or otherwise taking disciplinary action against the licensee on any such ground.

11 8. Section 5107(a) of the Code states:

12 "The executive officer of the board may request the administrative law judge, as
13 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
14 certificate found to have committed a violation or violations of this chapter to pay to the board all
15 reasonable costs of investigation and prosecution of the case, including, but not limited to,
16 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

17 9. Code section 5000.1 provides as follows: "Protection of the public shall be the
18 highest priority for the California Board of Accountancy in exercising its licensing, regulatory,
19 and disciplinary functions. Whenever the protection of the public is inconsistent with other
20 interests sought to be promoted, the protection of the public shall be paramount."

21 10. Title 16, California Code of Regulations section 87 states that:

22 "(c) Accounting and Auditing Continuing Education Requirement.

23 A licensee who engages in planning, directing, performing substantial portions of
24 the work, or reporting on an audit, review, compilation, or attestation service, shall complete 24
25 hours of the 80 hours of continuing education required pursuant to subsection (a) in the course
26 subject matter specified in this subsection. Course subject matter must pertain to financial
27 statement preparation and/or reporting . . . auditing , reviews, compilations, industry accounting,
28 attestation services, or assurance services. This continuing education shall be completed in the

1 same two-year license renewal period as the report is issued. If no report is issued because the
2 financial statements are not intended for use by third parties, the continuing education shall be
3 completed in the same two-year license renewal period as the financial statements are submitted
4 to the client.”

5 **FIRST CAUSE FOR DISCIPLINE**
6 **(Practice Without a Permit)**
7 **Bus. & Prof. § 5050**

8 11. Respondent is subject to disciplinary action under section 5050, in conjunction
9 with section 5100(g), in that between October 1, 2002, through September 30, 2007, respondent
10 practiced public accountancy with an expired license. The circumstances are as follows:

11 a. Respondent signed a Certificate of General Experience on July 24, 2007 as
12 a validly licensed supervising CPA, on the application of Ramina Atanos for a CPA certification.
13 The certificate indicated that Ms. Atanos worked for respondent as a staff accountant from
14 January 7, 2005 to April 15, 2005.

15 b. Respondent’s practice activities during this time period, by his own
16 description, included compilations without disclosures (1% of time), other miscellaneous
17 activities (.5 % of time) and tax return preparation (98.5% of time) with the approximate number
18 of tax returns and staff employees thereafter indicated:

<u>Time Period</u>	<u>Staff</u>	<u>Approximate Tax Returns</u>
10/2/02 - 12/31/02	2	50
2003	3	1000
2004	3	1000
2005	3	1200
2006	3	1150
01/01/07 - 10/01/07	3	1100

24
25 c. Respondent held himself out as a CPA under the firm name, “Jerry White
26 and Associates, Accountancy Corporation,” during said time period.

27 d. Respondent, using the firm name, “Jerry White and Associates,
28 Accountancy Corporation,” prepared a compilation report and accompanying financial

1 statements, dated July 30, 2007, for the Board of Directors of ABM Test Inc.

2 e. Respondent, using the firm name, "Jerry White and Associates,
3 Accountancy Corporation," prepared a 2006 federal income tax return on or about April 5, 2007,
4 for Anthony and Sandra Burzota.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Name of Firm)**

7 **Bus. & Prof. § 5060**

8 12. Respondent, in conjunction with section 5100(g), is subject to disciplinary action
9 under section 5060 in that respondent practiced public accountancy under the unregistered firm
10 name "Jerry White and Associates, Accountancy Corporation" before February 8, 2008, when he
11 registered that name with the Board. The circumstances are as follows:

12 13. In response to a letter of inquiry from the Board, respondent stated that he started
13 using the name "Jerry White and Associates" in approximately January 2001. A website search
14 conducted on October 18, 2007, indicated that there were three different sites advertising the firm
15 name "Jerry White and Associates, Accountancy Corporation." Respondent provided the Board
16 a tax return and client transmittal letter dated April 5, 2007, both documents bearing "Jerry
17 White and Associates, Accountancy Corporation." Also, in his compilation report to the Board
18 of Directors of ABM Test Inc., as set forth in paragraph 11d above, the signature block bears the
19 name "Jerry White and Associates."

20 **THIRD CAUSE FOR DISCIPLINE**
21 **(False Statements In Obtaining Certificate)**
22 **Bus. & Prof. § 5100(b)**

23 14. Complainant realleges paragraphs 11, 12 and 13 above, and incorporates them
24 herein by reference as if fully set forth at this point.

25 15. Respondent is subject to disciplinary action under Code section 5100(b) for
26 making false statements on his license renewal form in order to obtain a certificate. Specifically,
27 although respondent answered "no" to question 8, "are you currently practicing public
28 accountancy?" he was, in truth and in fact, engaging in the practice of public accountancy, as
evidenced by (1) holding himself out as a certified public accountant, (2) preparing a tax return
dated April 5, 2007, (3) signing a "Certificate of General Experience," dated July 24, 2007, and

1 (4) preparing a compilation report with accompanying financial statements dated July 30, 2007.

2 **FOURTH CAUSE FOR DISCIPLINE**
3 **(Dishonesty in the Practice of Public Accountancy)**
4 **Bus. & Prof. § 5100(c)**

5 16. Complainant realleges paragraphs 11, 12, and 13, above, and incorporates them
6 herein by reference as if fully set forth at this point.

7 17. Respondent is subject to disciplinary action under Code section 5100(c) for
8 dishonesty in his dealings with his clients and the public in that he represented himself to his
9 clients and the public as a CPA and performed public accounting services when his license was
10 expired and delinquent.

11 **FIFTH CAUSE FOR DISCIPLINE**
12 **(Willful Violation of Board Regulations)**
13 **Bus. & Prof. § 5100(g)**
14 **(Failure to Complete Continuing Education Requirements)**
15 **Cal. Code Regs, Title 16, Section 87(c)**

16 18. Complainant realleges paragraphs 11, 12, and 13 above, and incorporates them
17 herein by reference as if fully set forth at this point.

18 19. On October 3, 2007, respondent submitted to the Board an application for license
19 renewal and a Continuing Education Worksheet listing the courses that he took between
20 August 28, 2006, and September 29, 2007. In response to the Board's request, respondent sent
21 the Board copies of certificates of completion to support the continuing education hours listed on
22 his license renewal form. As a condition of active status license renewal, since respondent
23 performed a compilation during the two-year period preceding his license renewal, respondent
24 was required to have completed, in the two-year period preceding his license renewal, 24 hours
25 of accounting and auditing (A&A) and eight hours of fraud specifically related to financial
26 statements. Based on the certificates of completion respondent submitted to the Board, only 17
27 hours of A&A are shown as completed. Consequently, respondent was 7 hours short of the 24
28 hours of continuing education required pursuant to Title 16, California Code of Regulations
section 87.

29 20. Respondent is subject to disciplinary action under Code section 5100(g) for
30 willful violation of section 87(c) of the Board regulations in that he failed to fulfill the continuing

1 education requirements mandatory for active license renewal.

2 PRAYER

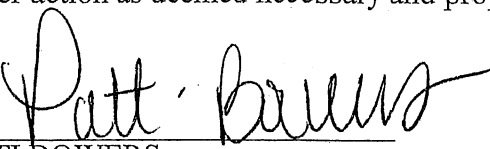
3 WHEREFORE, Complainant requests that a hearing be held on the matters herein
4 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

5 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
6 Accountant Number 72061, issued to Jerry Walter White.

7 2. Ordering Jerry Walter White to pay the California Board of Accountancy the
8 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
9 Professions Code section 5107;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: November 6, 2008


PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant